

AD-A258 213



2

SSI

**Strategic Studies Institute
U.S. Army War College**

THE SENATE AND INF RATIFICATION

DTIC
ELECTE
DEC 1 1992
S C D

David T. Jones



DISTRIBUTION STATEMENT A

Approved for public release
Distribution Unlimited

UNCLASSIFIED

SECURITY CLASSIFICATION OF THIS PAGE

REPORT DOCUMENTATION PAGE

Form Approved
OMB No. 0704-0188

1a. REPORT SECURITY CLASSIFICATION Unclassified			1b. RESTRICTIVE MARKINGS		
2a. SECURITY CLASSIFICATION AUTHORITY			3. DISTRIBUTION/AVAILABILITY OF REPORT		
2b. DECLASSIFICATION/DOWNGRADING SCHEDULE			Approved for public release; distribution unlimited		
4. PERFORMING ORGANIZATION REPORT NUMBER(S) ACN 92052			5. MONITORING ORGANIZATION REPORT NUMBER(S)		
6a. NAME OF PERFORMING ORGANIZATION Strategic Studies Institute		6b. OFFICE SYMBOL (If applicable) AWCI	7a. NAME OF MONITORING ORGANIZATION		
6c. ADDRESS (City, State, and ZIP Code) U.S. Army War College, Carlisle Bks Carlisle, PA 17013-5050			7b. ADDRESS (City, State, and ZIP Code)		
8a. NAME OF FUNDING/SPONSORING ORGANIZATION		8b. OFFICE SYMBOL (If applicable)	9. PROCUREMENT INSTRUMENT IDENTIFICATION NUMBER		
8c. ADDRESS (City, State, and ZIP Code)			10. SOURCE OF FUNDING NUMBERS		
PROGRAM ELEMENT NO.		PROJECT NO.	TASK NO.	WORK UNIT ACCESSION NO.	
11. TITLE (Include Security Classification) The Senate and INF Ratification (U)					
12. PERSONAL AUTHOR(S) Jones, David T.					
13a. TYPE OF REPORT Final		13b. TIME COVERED FROM _____ TO _____	14. DATE OF REPORT (Year, Month, Day) 92/11/16		15. PAGE COUNT 52
16. SUPPLEMENTARY NOTATION					
17. COSATI CODES			18. SUBJECT TERMS (Continue on reverse if necessary and identify by block number)		
FIELD	GROUP	SUB-GROUP	Intermediate-Range Nuclear Forces (INF) Treaty; post-cold war era; weapons systems; ratification arms control		
19. ABSTRACT (Continue on reverse if necessary and identify by block number) The Intermediate-Range Nuclear Forces (INF) Treaty represented one of the first major accomplishments of the post-cold war era. In contrast to all arms control agreements which preceded it, INF resulted in the elimination of a whole category of weapons systems. The author describes and analyzes many issues which impinged on the Senate ratification process and stimulated intense political debate. In addition to national and international security questions, these issues involved constitutional, political, jurisdictional, and bureaucratic factors. The author concludes with lessons and recommendations for more expeditious ratification for future agreements.					
20. DISTRIBUTION/AVAILABILITY OF ABSTRACT <input checked="" type="checkbox"/> UNCLASSIFIED/UNLIMITED <input type="checkbox"/> SAME AS RPT. <input type="checkbox"/> DTIC USERS			21. ABSTRACT SECURITY CLASSIFICATION Unclassified		
22a. NAME OF RESPONSIBLE INDIVIDUAL Marianne P. Cowling			22b. TELEPHONE (Include Area Code) (717) 245-2224	22c. OFFICE SYMBOL AWCI	

THE SENATE AND INF RATIFICATION

David T. Jones

November 16, 1992

Accession For	
NTIS ORIS	<input checked="" type="checkbox"/>
DTIC TAB	<input type="checkbox"/>
Unannounced	<input type="checkbox"/>
Justification	
By	
Distribution/	
Availability Codes	
Dist	Avail and/or Special
A-1	

92-30408

5488

92 11 30 015

The views expressed in this report are those of the author and do not necessarily reflect the official policy or position of the Department of the Army, the Department of Defense, or the U.S. Government. This report is approved for public release; distribution is unlimited.

Comments pertaining to this report are invited and should be forwarded to: Director, Strategic Studies Institute, U.S. Army War College, Carlisle, PA 17013-5050. Comments also may be conveyed to the Director of Research by calling commercial (717) 245-3234 or DSN 242-3234.

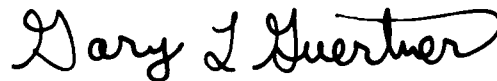
Research on this report was completed in June 1992.

FOREWORD

The Intermediate-Range Nuclear Forces (INF) Treaty represented one of the first major accomplishments—virtually signalled the beginning—of the post-cold war era. In contrast to all arms control agreements which preceded it, INF actually resulted in the elimination of a whole category of weapons systems. Broadly supported, the Senate eventually consented to its ratification by a lop-sided vote of 93 to 5. Yet the ratification process consumed four months and stimulated some intense political debate. In this monograph, David T. Jones, a participant in the entire ratification process, presents a detailed and insightful description and analysis of the many issues which impinged on the proceedings. They included, in addition to national and international security questions, constitutional, political, jurisdictional, and bureaucratic factors.

This insightful analysis should provide guidance for any Administration in preparing to submit future arms control treaties to the Senate for ratification. Moreover, Mr. Jones' practical recommendations should also be useful for other kinds of agreements which require the advice and consent of the Senate.

This study is offered to expand and improve our understanding of and our ability to effectively participate in the interagency process for national security policymaking.



GARY L. GUERTNER
Acting Director
Strategic Studies Institute

BIOGRAPHICAL SKETCH OF THE AUTHOR

DAVID T. JONES was the Assistant for International Affairs ("POLAD") to the Chief of Staff of the Army from November 1989 to July 1992. He is a Senior Foreign Service Officer with an extensive background in arms control and European Affairs who was detailed from the Department of State as Political Advisor. Among his recent assignments, Mr. Jones was Deputy Chief of the State Department's INF Treaty Ratification Task Force, Special Assistant to the INF Negotiator, and Deputy Director of the State Department's Office of Theater Military Policy in the Politico-Military Affairs Bureau. Mr. Jones has been assigned to the State Department's NATO and Southern European Affairs desks and the U.S. Mission to NATO. He graduated from the University of Pennsylvania with graduate study in political science and international relations. He is currently assigned as the Political Counselor at the American Embassy in Ottawa.

THE SENATE AND INF RATIFICATION

Introduction.

On January 25, 1988, when Secretary Shultz addressed the Foreign Relations Committee, the U.S. Senate began its review of the Intermediate-Range Nuclear Forces (INF) Treaty. On May 27th, the full Senate gave its approval in a vote of 93 to 5. Between the walls of these dates, the Senate conducted the most intensive and protracted scrutiny of an arms control treaty ever held. Legally, there is no question what the Senate was undertaking. The Constitution of the United States in Article II, Section 2 requires the Senate to provide its "advice and consent," i.e., review and approval, to treaties and requires a two-thirds favorable vote for their acceptance. As treaties became the highest law of the land, the framers of the Constitution considered that this stringent approval process was appropriate.

But in the current era, perhaps least of all is treaty making a legal process. To be sure, there are intricate and fascinating legal issues, as any modern treaty is rich with lawyerly language and the proponents and opponents of any treaty often will couch their objections in such phraseology. The fundamental elements of the INF Treaty ratification process, however, were political and had far less to do with the technical merits of the treaty than with demonstrating political power and "sending messages." What then were the parameters of this review? What were the problems and how were they resolved? What should the process tell the U.S. Government and the American people?

A Larger Context: The Politics of the INF Treaty.

Although the Senate was about to begin its first ratification review of an arms control treaty in over a decade, the virtues and liabilities of the treaty were hardly the only, and perhaps not the most important, aspects in play for the Senate. Of special note were political concerns (both domestic and

international) and underlying these were an Executive-Congressional power battle over the making and interpretation of treaties.

The Politics of INF. First and foremost there were political considerations, both domestic and international. The INF Treaty was wildly popular. Every poll illustrated this popularity with endorsements ranging from the Veterans of Foreign Wars to Women's Strike for Peace—a coalition unusual in U.S. politics. Every domestic and international poll demonstrated similar, if not greater popularity. Endorsements came from every significant European political party in or out of power. Likewise, positive supporting comments from around the world deluged the INF Treaty, giving it a golden aura—akin to the development of canned beer and sliced bread. The treaty, in and of itself, was a "Good Thing." Support was so high (and credible opposition so negligible) that the Reagan Administration quickly concluded that "the treaty sells itself" and deliberately determined not to create and dispatch a legion of official spokesmen to address domestic audiences equivalent to the "SALT sellers" during the Strategic Arms Limitation Treaty (SALT) II ratification. Attempting to generate further support was deemed counterproductive; not only was it unnecessary to expend public affairs funds and energies on a topic so universally popular, but the Administration feared individual senators would consider that they were being unfairly pressured/hustled if such a campaign were to be mounted. Thus, following initial availability of a wide range of documentary information and official spokesmen in the days immediately following the treaty signature to explain its content and ramifications to media and particularly to editorial writers, the Administration took a low key public relations approach. Its officials mentioned the treaty in the course of speeches on general topics, but, with the exception of a Saturday radio address by President Reagan, did not concentrate uniquely on INF.

The treaty was popular for good substantive reasons: total elimination of a Soviet weapon system threatening NATO, asymmetrical reductions favoring the United States, and an unprecedented verification regime opening Soviet territory to

inspection. But even more importantly in the 1988 election year, it appeared to signify a payoff for the "peace through strength" motif which had dominated debate over U.S. defense spending and strategy for dealing with the Soviets throughout the Reagan presidency. Moreover, it was clear that the Republican Party intended to use the INF Treaty as a keystone in its election strategy. The Republicans had spent 7 years and hundreds of billions of defense dollars to rebuild effective military strength, *inter alia*, on the grounds that only such strength would bring the Soviet Union to terms at the bargaining table. The treaty, when ratified, would also demonstrate that President Reagan and the Republican Party had also effectively pursued "peace." Moreover, the treaty would be a particularly effective counter to those domestic critics who had claimed that U.S. INF deployments would insure that there would never be INF reductions. That these critics were Democrats would provide a "rub their nose in it" additional pleasure. Admittedly, some candidates for the Republican nomination, notably Senator Dole, were initially reluctant to endorse the INF Treaty, perhaps because then Vice President Bush gave it vigorous support. Senator Dole explained his reticence on the grounds that he had to "read" the treaty. One wonders whether he ever actually read the hundreds of pages of treaty-related material or settled for a precis and a close reading of the polls.

Nevertheless, even the most public-spirited Democratic senator had to recognize that the Republican Party had created the potential for major political benefit at a critical point in the election process. Every political party wants to run on the 1956 Eisenhower political slogan of "Peace, Prosperity and Progress." With the INF Treaty, the Republicans in 1988 would have a lock on at least two of the three criteria for election. Thus, for Democrats to admit that the treaty was good, let alone excellent, was an indirect endorsement of President Reagan and Republican politics. To oppose the treaty, however, would run against the personal and political inclinations of most Democrats, as well as provide the Republicans with the election issue that the "Democrats were against peace." Coincidentally, opposing the treaty would play into the hands

of the Republican conservatives for whom a number of Democrats combine animosity with contempt.

Nor could the Senate, and the Democrats, be indifferent to the international ramifications of the treaty. Although bilateral in form, dealing as it does with only U.S. and Soviet weapons, the INF Treaty deeply involved NATO (and Warsaw Pact) territory and political concerns, and was distinctly of interest to Asian friends and allies. Ultimately, the Senate could be cavalier about the SALT II Treaty as it applied only to U.S. and Soviet strategic systems having no direct effect on allies. INF, however, was the epitome of an alliance cooperative venture. From recognition of the problem of Soviet SS-20s through U.S. Pershing II and cruise missile deployments, and intensive consultation during the Geneva negotiations, NATO had been intimately involved in the INF Treaty. NATO "basing countries" with U.S. INF missile bases had to accord parliamentary approval to provisions of the agreement permitting Soviet inspectors on allied territory. Removing Soviet INF missiles would be a benefit for NATO and its allies, who made no bones about their desire for early Senate ratification of the treaty to the occasional irritation of individual senators. Indeed, the judgment even by some skeptical of the treaty, such as former Secretary of State Kissinger, was that it should be approved if only because the consequences of rejection would be more damaging to U.S.-NATO relations than the consequences of the treaty.

The Constitutional Question. A far deeper underlying issue was the Constitutional concern of making and interpreting treaties, as illustrated by the protracted fight over the Anti-Ballistic Missile (ABM) Treaty. Epitomized in the arguments of the State Department Legal Adviser, Judge Abraham Sofaer, the Reagan Administration contended that it was free to reinterpret the ABM Treaty based on elements of the negotiating record that had not been presented to the Senate during the course of the ratification debate, even if the interpretation reversed what government witnesses had told the Senate. Unsurprisingly, the Senate vigorously dissented from this "Sofaer Doctrine" analysis. Consequently, the Senate was looking for an opportunity to assert its position and the INF

Treaty provided the perfect battleground to contest points such as providing the negotiating record to the Senate, determining when Administration spokesmen were speaking "authoritatively" for the record, and pinning down what leeway, if any, the Executive Branch had to interpret a treaty beyond the confines of material that had been presented to the Senate. Thus, if the Administration held the strategic advantage of the popular appeal of the treaty to force its approval, the Senate held the tactical advantage of being able to arrange the conditions under which the senators would ratify it.

The Senate and INF: The Run-up to Ratification.

The period of official review by the U.S. Senate was but one facet of the "advise and consent" process. The divisions between Executive and Legislative Branches which have characterized U.S. domestic politics during most of the past generation have also put a strong imprint on U.S. foreign policy. Bluntly, it is impossible simply to negotiate a treaty, let alone an arms control treaty, and send it to the Senate assuming sanguine legislative acceptance. The Executive Branch, whether controlled by Republicans or Democrats, does not command a partisan two-thirds Senate majority. Likewise, the era of "Executive Agreements," that is, foreign affairs agreements which are *de facto* treaty equivalents but ostensibly reached between ranking Executive officials and hence requiring only a congressional majority, has largely ended. The Senate has made it clear to the Executive Branch that, particularly on arms control topics, it views an Executive Agreement as a subterfuge to avoid the Constitutional "advise and consent" process, and has a plethora of mechanisms, particularly fiscal, to prevent such agreements from coming into effect even if they could be passed. (Ironically, elements of the House of Representatives will from time to time push for returning to "Executive Agreements," not from any desire to make it easier for the Executive Branch to conclude agreements, but to deal themselves into the action.)

By 1985, the Executive Branch and the Senate had established the Senate Observers Group. With a small staff drawn from the Senate Foreign Relations Committee, this

organization was designed as a bipartisan mechanism to receive information on arms control (and consequently develop senatorial expertise on the topic) and simultaneously to serve as a sounding board for senatorial opinion for any emerging arms control agreement. Such a "stroking" operation was pursued both in Washington and Geneva. On a regular basis, senior Administration arms control experts such as Ambassadors Nitze and/or Kampelman or the Geneva negotiators, as available, would brief members of the Observer Group and selected Senate staff. Such briefings covered Strategic Arms Reduction Talks (START) and Defense and Space negotiations as well as INF. Likewise, the group would travel to Geneva an average of once a negotiating "round" to discuss issues directly with U.S. and Soviet negotiators. This direct consultative process was a remnant of the SALT I negotiations when senators held *ex officio* right to participate directly in the negotiations, a status still nostalgically recalled by some senators.

If the concept behind the Senate Observer Group was brilliant, the execution was less so. The concept would have created a core cadre of well-informed senators who, on the basis of years of knowledge and familiarity with the emerging agreement, would have led the subsequent ratification debate. Thus Observer Group membership was always rather small and stable to foster greater technical expertise and Legislative-Executive Branch trust. The unfortunate reality, however, was that during the years of negotiations, little "homework" was done. Proffered briefings were politely turned down or poorly attended, and then primarily by staff. Visits to Geneva during work-a-day sessions often attracted a sparse senatorial turnout which, when combined to visits elsewhere in Europe, could be criticized as merely junketeering, a charge which made some senators more leery about participating. And, until close to the very end of the negotiations, it was not obvious that agreement was imminent. In short, INF arms control negotiations fell victim to the Hill syndrome that if a subject isn't being voted on tomorrow or the subject of attention of a constituent pressure group providing significant financial support, it is not going to get regular attention. Arms control has to fight for the limited hours and minutes in a senator's

attention span that are also clamored for by abortion supporters, prayer in school advocates, reelection campaigns, veterans rights, welfare reform, individual DOD weapons programs, local dam/river projects and all the hundreds, indeed thousands, of topics that surge across the U.S. political scene lodging in one way or another in the Senate.

Analysts in the Executive Branch recognized and regretted this phenomenon but moved ahead. Ultimately, with the exception of Senators Nunn and Stevens, the Senate Observer Group did not play a significant leadership role in treaty ratification. Nevertheless, the limited feedback available from staff and senators helped familiarize the INF negotiators with some politically sensitive points such as the disposition of nuclear warheads. Past experience with the Senate analysis of SALT II assured that the INF Treaty did not have the obvious "treaty killer" loopholes that particularly incensed senators during that review, e.g., potential interference with national technical means, encoding telemetry, and inadequate inspection. The INF negotiators flagged the prospect of ultimately having to obtain Senate approval for the treaty to the Soviets in negotiating sessions on specific points, particularly for inspection/verification concerns. Indeed, occasionally the Soviets attempted to counterpressure, asserting that the Supreme Soviet would have to give its approval. Although the Soviets doubtless believed that we overdid the specter of Senate ratification and were openly dubious, we were more credible than they.

The Administration Organizes to Ratify.

No one at senior levels in the Reagan Administration had ever managed the ratification of an arms control agreement. The most recent precedent, the SALT II Treaty, had been a catastrophe and the willingness to duplicate its bureaucratic structures was commensurately lacking. Ultimately, the officially designed structure for coordinating the Executive Branch ratification effort was centralized and cumbersome. The structure placed White House Chief of Staff Senator Howard Baker in overall command of ratification with top level White House political and substantive officials coordinating

U.S. Government policy on specific aspects, e.g., legal matters under White House Counsel Civiletti. The State Department Counselor, Ambassador Max Kampelman, for example, was one of the representatives on this high level policy committee. The White House also took direct responsibility for the "treaty interpretation" issue as it was a political-Constitutional question rather than a substantive INF concern. Subordinate levels within the National Security Council (NSC) coordinated working level action. Great emphasis was placed on "singing from the same sheet of music" with the concurrent requirement for full interagency coordination of all official statements and responses to senatorial questions. Each agency involved in the substantive issues (State, DOD, JCS, ACDA, CIA) set up its own internal organization to manage ratification-connected issues, e.g., official testimony, responses to senatorial inquiries.

The State Department, which had the lead agency responsibility, had a relatively elaborate two-tiered structure. In overall control, Ambassador Kampelman chaired an INF Policy Group which included Assistant Secretaries of the major bureaus dealing with INF (European Affairs, Politico-Military Affairs), long-term arms control experts such as Ambassadors Nitze and Rowny, Chief INF Negotiator Ambassador Glitman, and high ranking technical experts from Legal and Congressional Affairs as well as from the Arms Control and Disarmament Agency (ACDA). This group set policy and addressed major problems, reporting to Secretary Shultz. Backstopping this policy group was an "INF Ratification Task Force," directed by a senior Foreign Service Officer, which included several State INF experts empowered to draw widely on department resources to handle questions and problems. INF negotiator Ambassador Glitman was maintained and supported separately as a spokesman for the Administration as a whole, and testified more frequently and extensively on the treaty than any other Administration witness on the negotiating history and interpretation of the treaty.

The complex theoretical structure broke down over time. High level attention to the ratification process waned as the committee hearings and testimony ground forward over the

months and ranking officials at the White House and State met less frequently. The NSC continued to insist on centralized control over "authorized" responses but mid-level officials operated with substantial autonomy.

Providing Paper for the Senate. Recognizing the prospective role of the Senate, the Executive began a full court press with the arrival of the treaty in Washington for signature. The Summit signing ceremony between the President and General Secretary Gorbachev was attended by a selection of ranking senators with an eye toward co-opting possible doubters and flattering presumed supporters. Copies of the requisite treaty documents had been rushed to the Hill on the day of signature to assure that the public relations aspects of the impending ratification were not neglected. Simultaneously, the Executive Branch worked to complete an official transmittal letter from Secretary Shultz to the Senate. This letter of transmittal, officially delivered when Shultz provided opening testimony before the Senate Foreign Relations Committee on January 26th, also provided an article-by-article explanation of the treaty, ostensibly in layman's language, but carefully reviewed by Department of State and other government lawyers to assure full conformity between the legal and "informal" text.

The Negotiating Record. One of the elements on which the Administration quickly yielded was providing the "record" of the negotiations to the Senate. The elements of this record were extensive, but not exhaustive. They consisted of formal decisions issued by the President on INF, official statements by U.S. and Soviet negotiators, formally presented ("tabled") documents such as draft treaties, summary and detailed reporting on the individual negotiating sessions, and official reporting on meetings between ranking U.S. and Soviet officials, e.g., meetings between Secretary Shultz and Foreign Minister Shevardnadze. This material covered the entire period of the INF negotiations from their inception in 1981 (interrupted by the Soviet walkout in 1983) to their conclusion in December 1987. Protected from Senate review, however, were the policy recommendations from the U.S. Delegation to Washington, personal reports and evaluations of negotiating

team members to their respective agencies (so called "backchannels") and the internal agency memoranda upon which agency positions were based. The requirement to produce the official reporting, however, generated a frenzy of effort within the vestigial elements of the disbanded U.S. Geneva negotiating team. Although each Geneva negotiating meeting had been carefully covered by specifically assigned reporting officers and a comprehensive summary message transmitted to Washington, reporting had lagged on the very detailed, semi-verbatim follow-up telegrams. Eventually all material was tracked down, although a couple of pieces were located and added only after the "record"—all 32 volumes and 5 feet of material—was officially transmitted to the Senate on January 25th. In fact, the record was not really available for Senate review, following staff logging and indexing, until February 22nd. In accordance with the agreement governing handling of the record, the Senate rigorously limited access to the material in quarters designed to secure classified documents and did not permit its duplication or removal. Ultimately, the record played little part in the ratification debate. The "smoking guns" suggesting negotiating errors or shortcomings, which some had hoped (or feared) would be discovered, did not exist. The sheer bulk of the material presumably deterred some prospective critics. Others may have recognized that a negotiator must have room for hyperbole. Thus while a negotiator, addressing his counterpart across the table, may rhetorically "fall on his sword," saying "I absolutely must have this point" on a specific topic and thereby have his demand on the "record"—it does not always necessarily mean "absolutely, positively."

Briefings and More Briefings. At the same time that the paper record was being prepared, the interagency teams designed intensive briefings. Some were one-on-one discussions between senior negotiators and senior senators—or any senator who wanted such a review. Other briefings were carefully tailored for the rank of the audience. Weeks were spent drafting and coordinating interagency briefings on political, military and intelligence aspects of the treaty with hierarchies of ranking agency representatives designated to brief increasingly senior Senate staff and

senators. There were, of course, glitches. An early effort to brief Senate Majority Leader Byrd was hindered by a slew of questions he had—to a long-superseded early draft of the treaty. Byrd's staff apparently had not provided him the final version. Likewise, the carefully crafted hierarchy of briefings proved overly elaborate. Few were requested and few attended those briefings that were presented. Instead, Senate staffers worked through the committees designated to hold hearings on the treaty or spoke directly to knowledgeable individuals when seeking information.

Senate Consideration: The Committee Process.

Upon presenting the INF Treaty to the Senate, the Reagan Administration largely lost control of ratification. Under Constitutional procedures, this would be the norm for any treaty as the responsibility of the Executive for a treaty ends (other than responding to senatorial questions) when the Senate begins its ratification review. Any attempt to "hustle" the Senate in its deliberation is counterproductive. Such a normal phenomena, however, was doubly true when combined with a Reagan White House and a Senate restored to Democratic control only a year earlier with a presidential election campaign in the offing. As a consequence, the Executive Branch had virtually no influence over when and how Senate committees would take up their review or when the Senate leadership would schedule debate. In retrospect, it is instructive to note that Administration insiders predicted the Senate would conclude its treaty review by the Easter recess at the end of March. Of course "prediction" is just another word for "guess" and the "end of March" was a very bad guess indeed.

It is also instructive to recall that the Senate was also going about INF ratification with minimal recent experience. It had been 17 years since the Senate last successfully ratified an arms control treaty (ABM Treaty in 1971) and only 18 of the senators then present were still active for the INF debate. None of them had played a major role in the ABM Treaty ratification.

Three Senate committees (Foreign Affairs, Armed Services, and Intelligence) had authority to hold hearings on the INF Treaty. Close to 50 senators were represented on one or another of the committees. Although all senators were not equally engaged in debate, each had different perspectives and personalities. Although official responsibility for treaty ratification lies with the Senate Foreign Relations Committee (SFRC) chaired by Senator Pell, the Chairman of the Armed Services Committee (Senator Nunn) was widely regarded as the most powerful individual personality in the Senate treaty review. This perception created a degree of tension between the SFRC and the Senate Armed Services Committee (SASC). The SFRC, with the exception of conservative Republican Senators Helms and Pressler, was the most committed to timely completion of ratification while the SASC repeatedly found points in the treaty with which Senator Nunn in particular disagreed and consequently was determined to "fix." The Senate Select Committee on Intelligence (SSCI), whose interest in the INF Treaty was primarily concerned with its monitoring and verification, had a more limited initial role.

Committee reviews can be divided into two parts. The first set of formal reviews began on January 25th and was concluded by the end of March. The second, stimulated by verification questions and the issue of the role of future technology for INF range missile systems, was played out in May, particularly by the Intelligence Committee, and led into senatorial involvement in negotiating agreed interpretations of the treaty.

The Senate Select Committee on Intelligence (SSCI). Cochaired by Senators Boren (D-Oklahoma) and Cohen (R-Maine), the SSCI was dominated by a long-term, expert staff highly knowledgeable in the techniques and lore of intelligence. A substantial number of the sessions on the INF Treaty were "closed," focusing on classified material and systems which would be employed to verify the INF Treaty (and any subsequent arms control treaty). The result of initial hearings was a cool-eyed review of INF monitoring possibilities starting from the premise that "no verification and monitoring regime can be absolutely perfect." The essential conclusion

was that while there were areas of potential weakness in the treaty (the unresolved dispute over numbers of SS-20s and the potential for developing a covert Ground Launched Cruise Missile [GLCM] force), "the Soviets have little or no incentive to cheat"—primarily because their nuclear inventory remained large enough even after INF reductions to cover desired targets "and still have several thousand warheads in reserve."

Although the SSCI report was approved unanimously on March 21st with no recommendations for alterations in the treaty, the calm technocrats of the SSCI had their own ax to grind in the report. The SSCI analysis of the INF Treaty, while providing the required review of treaty provisions, was primarily a launching pad for a judgment on any prospective START agreement. A START treaty, requiring 50 percent reductions and consequent monitoring of a complexly structured residual force, would be significantly more difficult to verify than the global elimination INF Treaty. The SSCI report strongly recommended "investing more" in modernized intelligence systems to verify a prospective START Treaty. Indeed, it was rumored that SSCI senators considered conditioning their agreement to an INF Treaty on expanded funding for satellite systems which the Executive Branch deemed currently unnecessary and they ultimately extricated a commitment for \$2 billion for increased National Technical Means (NTM) capability.

The Senate Foreign Relations Committee (SFRC). Chaired by Senator Pell, the SFRC had primary jurisdiction over the treaty review and other committees reported to it. Consequently, while the SSCI and SASC worked in the shadows and often in closed sessions, the high visibility testimony by Executive Branch witnesses and treaty critics was played out before the SFRC. Weeks of hearings saw the appearance of Secretaries of State (twice) and Defense, the Chairman of the Joint Chiefs of Staff and the individual service chiefs, the director of the Arms Control and Disarmament Agency and a wide variety of second level critics and supporters. Testimony filled five volumes with a sixth volume devoted to the SFRC report including minority positions and observations.

During the SFRC review, the treaty faced a number of criticisms (primarily from Senator Helms). The most prominent were:

- *Nondestruction of Nuclear Material.* Much to the surprise of Administration witnesses, who anticipated attacks on issues such as treaty verifiability, Senator Helms chose to focus on an obscure point, the exclusion of nuclear material from the INF Treaty, during the period of maximum public and media attention in the opening days of testimony. He charged that INF warheads could be "bolted on" to other Soviet missiles and that excluding nuclear material from elimination gave the Soviets an advantage. Senatorial reaction was that the issue was not just a red herring but a "crimson whale," as the utility of the nuclear material without the missile to deliver it was nil. In fact, it had been the United States which insisted on excluding nuclear material from the treaty, *inter alia*, to preserve the confidentiality of nuclear weapon design information which otherwise might be compromised during its destruction and to avoid the potential environmental problems associated with destruction of nuclear material.
- *A "Covert" SS-20 Force.* Senator Helms argued that, in the absence of the right to search the territory of the Soviet Union "anywhere, anytime," the Soviets could hide and maintain an SS-20 force. He noted differences in U.S. intelligence estimates to justify his contention that the Soviets had not declared as many SS-20s as they had produced.

The question of a "covert" force was legitimate, particularly given past Soviet history of compliance with agreements and deserved serious examination. It was an issue which the negotiators wrestled with repeatedly and sought to guard against through specific treaty provisions.

Intelligence "estimates" lie at the bottom of the argument over a covert SS-20 force. There are many ways in which an intelligence judgment over an enemy force is reached. Absent

a spy who can provide day-to-day order of battle figures and production statistics, any intelligence judgment is a construct based, *inter alia*, on previous Soviet practice for its missile force, observed systems, patterns of deployment, estimates of factory production, etc. Thus, different intelligence analysts working from the same information but making different judgments (e.g., will a factory produce 24 hours a day/365 days per year or at some lesser rate), can come to different judgments, each of which are logically "valid." Something of this nature occurred in estimates of the Soviet SS-20 missile force and, consequently, agency conclusions differed. The DIA estimate subsequently cited by Senator Helms and other treaty critics was at the high end of the interagency spectrum of estimates. This does not mean that it was illogical; simply that it was wrong. Nevertheless, *proving* it wrong was an attempt to prove a negative, i.e., that there is no covert missile force. The INF negotiator, Ambassador Glitman, noted that an INF "covert force" was akin to the Loch Ness Monster in that he could not *prove* that it did not exist. U.S. negotiators considered it illogical for the Soviets to attempt to maintain a covert SS-20 force as the numbers would be militarily trivial and the financial costs of maintaining such a force significant (even discounting negative international reaction if the missiles were discovered). Additionally, by eliminating all SS-20 training missiles, prohibiting test flights in INF ranges and monitoring the SS-20 final assembly facility, intelligence specialists judged that the military reliability of any hidden missiles would quickly degrade.

- *Don't Prohibit the Conventionally Armed Cruise Missile.* Some critics, particularly former Assistant Secretary of Defense Perle, argued that not all INF-range GLCM should be banned. He proposed revising the treaty to permit cruise missiles armed with high explosives while banning only cruise missiles armed with nuclear weapons. Such officials projected a significant future for such conventionally armed cruise missiles, which they hypothesized could become a major element in NATO arsenals by being able to strike distant targets at low cost and with extreme precision. Military authorities, however,

disagreed, stating that there was no military requirement for such systems. Nevertheless, the most significant reason to ban all INF-range GLCM was that it was impossible to distinguish between nuclear and conventionally armed GLCM. Bluntly, a conventional cruise missile could not be verified. Despite extensive study, there was no method to guarantee that a conventional GLCM could not quickly be converted into a nuclear GLCM. An exception for a "conventional GLCM" would have been a major loophole providing the Soviets with a virtually irresistible incentive to cheat. Indeed, the military judgment was that it would have to regard all "conventional" Soviet GLCMs as nuclear armed.

The Senate Armed Services Committee (SASC). Headed by Senator Nunn with Senator Warner the ranking minority member, the SASC took a more skeptical approach to the treaty. Throughout February, the SASC mixed testimony on the INF Treaty with the status of the conventional forces balance in Europe, reflecting Senator Nunn's earlier expressed concern that an INF agreement should be linked to reductions in conventional forces. Toward the end of February, however, the SASC began 2 days of testimony by the INF negotiator, Ambassador Glitman, based on 135 questions prepared by the SASC staff on points of interpretation and clarification in the treaty. As the committee began to "walk through" the treaty, article-by-article, many of the formal questions were answered on the spot along with those occurring to senators during the course of discussion. The official responses to questions unanswered during 2 days of testimony were not completed and returned to the SASC until March 14th, whereupon Ambassador Glitman returned for further testimony on March 18th—and still further supplementary questions.

On March 22nd, Nunn was due to present the SASC report to the Foreign Relations Committee; however, the additional testimony from Glitman, detailed review of the negotiating record and internal committee discussion delayed the report. Consequently on March 22nd, Nunn spoke to the SFRC "in his personal capacity" pending his committee presentation. He

was remarkably unenthusiastic about the treaty, freighting his remarks with concerns over the European conventional force balance and NATO's military shortcomings while urging follow-up action in both conventional arms control and force modernization. Nunn coldly observed that NATO was "within its rights" to celebrate the treaty, but without a START agreement, "its military significance is, at best, marginal." He grudgingly concluded that the treaty could "make a modest but useful contribution to NATO security" and, on balance, "the positive features of the treaty outweigh the weaknesses." However, as well as the festering issue of a treaty interpretation amendment, he, and subsequently Senator Warner, signaled difficulties, *inter alia*, over what INF-related activities (research, technical assistance programs) would be permitted with NATO members, whether to permit conventionally armed cruise missiles, whether a "double negative" in Article VI would permit the Soviets a loophole to produce a second stage of the SS-20, and how "future systems" would be regulated.

Unsurprisingly, when the formal SASC report emerged on March 29th, the observations and conclusions closely reflected Nunn's initial "personal" comments. Of particular concern were "futuristics" (explored in detail below) and the "double negative."

- *Grammarians to the Fore: The Double Negative.* The most difficult issue in the INF negotiations was unveiled close to their end. In the course of protracted discussion over verifying that all "stages" (sections) of INF missiles were eliminated, the United States discovered that one SS-25 stage was "outwardly similar but not interchangeable" with an SS-20 stage. In short, the Soviets were using the first stage of the SS-20 as the first stage of their Intercontinental Ballistic Missile (ICBM), the SS-25. Obviously they were not going to give us a "two for one" deal by agreeing to eliminate the SS-25 in the course of eliminating the SS-20. Equally clearly, we were not going to permit an obvious treaty circumvention by permitting the Soviets to continue to

build an unregulated stage of the SS-20. After much high pressure negotiation, the sides agreed that each would have the right to build a ballistic missile incorporating a stage in effect identical to an INF missile stage. Thus the Soviets could build the SS-25 (incorporating a virtual duplicate of an SS-20 stage) and the United States could build a short range missile or an ICBM that used one stage of the Pershing II. This agreement was embodied in the Treaty as follows:

Notwithstanding paragraph I of this Article [which *inter alia* bans production of INF missile stages], each Party shall have the right to produce a type of GLBM not limited by this Treaty which uses a stage which is outwardly similar to, but not interchangeable with, a stage of an existing type of intermediate-range GLBM having more than one stage, providing that Party does not produce any other stage which is outwardly similar to, but not interchangeable with, any other stage of an existing type of intermediate-range GLBM.

The SASC and particularly Senator Nunn argued that this language created a "double negative," the effect of which would be to permit the Soviets to produce not only a missile with a stage which was "outwardly similar to, but not interchangeable with" an SS-20 stage but also another missile stage that was outwardly similar *and* interchangeable with an SS-20 stage. Administration witnesses and particularly Ambassador Glitman vigorously disagreed, noting in particular that a stage that was outwardly similar and interchangeable with an SS-20 stage would *be* an SS-20 stage and thus banned. Although admitting that the record demonstrated that there was a "meeting of the minds," the SASC concluded the paragraph was "technically flawed and should be clarified," perhaps by an exchange of diplomatic letters. In contrast, the SFRC examination of the issue concluded that while the provision was "awkwardly phrased," there was no risk it would be misunderstood and thus no need for further clarification with the Soviets. The point, however, was to arise again during formal Senate debate.

Questions, Questions, Questions.

A remarkable sidelight of the INF ratification process was the blizzard of questions posed by Congress to the Executive Branch. In the normal course of testimony, official witnesses will "take" questions on which they do not have instant expertise. Or senators will provide "follow-up" questions either based on testimony or covering areas not addressed by official statements. Such questions, while not exceptional, are usually relatively few and precise in scope. For the INF Treaty, however, the volume and extent of the questions became a complicating factor for ratification. Although there were official legislative questions prior to the opening of ratification debate, the beginning of formal testimony unleashed a torrent of questions from individual senators and committees. Recognizing that the Reagan Administration was on the hotseat to respond to senatorial inquiry, questions ranged considerably afield from purely treaty-related issues: U.S.-Soviet relations; military force planning; U.S.-NATO relations; future of arms control. Most questions sought to clarify treaty points or elicit detail but others were of the purely "have you stopped beating your wife" variety. These "packages" eventually mounted to approximately 1300 questions, each of which had to be answered in "authoritative" detail and approved through the dauntingly tedious interagency process. Of particular note were a long study of the treaty by Senator Helms containing approximately 250 questions and an analysis by the American Enterprise Institute (AEI) on a variety of technical points. Officials responsible for answering and managing responses to the questions slowly sank beneath the waves. Policy prevented submitting responses to the "packages" of senatorial questions until all the questions in a specific "package" were answered. Invariably there was at least one question per package that generated problems in creating a response, frequently on an arcane substantive point over which the Administration was divided. Creating an artful response or resolving the specific substantive issue took considerable time. The heavier the question load, the slower the response time. The slower the Administration responded, the greater the senatorial irritation.

Unfortunately, the mass of answered questions had limited utility: they were rarely circulated beyond the individual senators or committees that had posed them and many were not available to the Senate as a whole until after ratification was complete, when they were printed in the volumes of the hearings. Thus they served more to put the Reagan Administration "authoritatively" on record for the history books than to inform the Senate on individual points for the ratification debate.

SFRC "Markup."

Having finished hearings and received reports from the SASC and SSCI, the SFRC turned to the "markup" of the treaty—in effect a final review by the committee to determine whether conditions or amendments should be added to the treaty. The Reagan Administration and the INF negotiators had viewed this process with some concern, fearing that Senator Helms would engage in a protracted marathon of discussion punctuated by proposals for detailed amendments which would be "treaty killers." Such action, the committee equivalent of a filibuster, could have been facilitated by traditional SFRC reluctance to limit comment by individual senators even if the result was considerable delay. Indeed, Senators Helms and Pressler appeared rehearsed for such a performance as copies of more than 50 theoretical amendments were unofficially circulated on the Hill. To counter this anticipated assault, the Administration quietly drafted ripostes to each of the hypothetical amendments and circulated them to selected committee members. As amendments could be included by majority vote, there were fears that ostensibly noncontroversial, "motherhood" amendments such as support for human rights or a general requirement for compliance with previous agreements might be attached to the treaty during committee action, if only to provide minority critics with a "bone" of consolation for their overall defeat—but nevertheless a "bone" which could require renegotiation or at least delay treaty implementation.

However, despite the heavily foreshadowed medley of amendments and anticipated delaying tactics, "markup" was

completed in 6 days with the SFRC voting out the treaty (17-2) on March 30th. Senator Helms engaged in only one bit of gamesmanship when he noted on the first day that a committee quorum was not present without him and forcing the end of the session by his departure. Of the mass of amendments prepared for them by their staff, Helms and Pressler formally presented only a scattered selection (7) for a vote, *inter alia*, a requirement that the President certify the Soviet SS-20 numbers were accurate; an amendment to permit conventionally armed cruise missiles; and a requirement for the President to certify that the Soviets were in full compliance with the Helsinki Final Act. All were defeated by massive margins with the two Republican conservatives attracting virtually no support from even party colleagues.

Still more satisfying to the Administration, the SFRC rejected the proposals for modification and amendment proposed by the SASC (outlined above). Doubtless intercommittee rivalries played a part in this tactic, but each of the points raised in the SASC report and emphasized by Senator Nunn was effectively dismissed or downplayed by the SFRC. The most important of these, a possible clarification of "weapons delivery vehicle" as an element of the "futuristics" debate was judged "desirable [but] not absolutely necessary." The Administration, at Senator Pell's request, had provided comment, i.e., rebuttal, to the SASC report on each of the five areas highlighted by Nunn. Thus the treaty was "clean"—free from substantive amendments.

A Single Condition (But Not a Small One). That said, the SFRC report included a "fly" in the Administration's ratification ointment the size of a California condor. The committee report and draft instrument of ratification incorporated a "condition" on treaty interpretation stimulated by the ABM Treaty reinterpretation debate. In ostensibly innocuous language, the "condition" required the "United States" (i.e., the Executive Branch) to interpret the INF Treaty in accordance with the "common understanding" between the Executive Branch and the Senate at the time of ratification and not to "adopt an interpretation different from that common understanding" without Senate approval. The "common understanding" was to

be based on treaty text and "authoritative representations" (the bureaucratic equivalent of speaking *ex cathedra*) by Executive Branch officials. Adopted by a 12-7 vote (with Republican Senators Helms and Murkowski joining the Democrats), the condition represented a significant defeat for the Administration's attempts to avoid a condition which it perceived (regardless of the detailed legal rationales of its proponents) as a mechanism by liberal Democrats to thwart any reinterpretation of the ABM Treaty that would permit development of the Strategic Defense Initiative ("Star Wars").

At various points in the ratification process, the Administration had advanced remedies for senatorial concerns which it hoped would defuse the issue. On February 9th, for example, Secretary Shultz responded to a letter from Senator Nunn by offering assurances that Executive Branch witnesses and supplied material on the INF Treaty could be regarded as "authoritative" and that "the Reagan Administration will in no way depart from the INF Treaty as we are presenting it to the Senate." Clearly waiting for this response before opening detailed examination of the treaty, on February 22nd Nunn quoted the letter in detail at the beginning of an SASC session, concluding that "What these assurances mean is that the committee can now proceed with detailed testimony on the treaty, confident that the treaty the Senate is being asked to approve is in fact the treaty that will be respected by the Executive Branch now and in the future." Although it is problematic whether the artfully crafted Shultz letter ultimately would have satisfied the political requirements of Democratic senators for a "treaty interpretation" amendment, any such hope was blasted by a letter from White House legal counsel Culvahouse on March 17th responding to a request by Senator Lugar to analyze a proposed "treaty interpretation" amendment. Aggressive in tone (and uncleared by Executive Branch agencies), the letter suggested that the Executive Branch was bound only to interpretations "...authoritatively shared with, and clearly intended, generally understood and relied upon by the Senate..." during ratification. SFRC lawyers concluded that this formulation, although it "may appear straightforward," was designed to create criteria that "would be so difficult to meet that the Executive would almost never be

bound by its own presentation to the Senate." Recognizing too late that he had kicked a dozing dog, Culvahouse attempted to recoup with a follow-up letter on March 22nd aligning himself with the Shultz interpretation, but Senate Democrats were now less willing than ever to be lenient. Brushing aside various backstage alternative formulations floated, for example, by Senator Lugar during the SFRC hearings and "markup," Committee Democrats determined that it would be done their way or not at all.

"Futuristics" Ratification Surprise. The issue of "futuristic" INF systems was completely unanticipated by the Administration negotiating/ratification team. It grew, however, from the proverbial "cloud the size of a man's hand" to a point where it threw ratification itself into doubt and required *de facto* renegotiation of a portion of the treaty. The "futuristics" issue consisted of two parts: The first of these dealt with the "hypersonic boost glide vehicle" and whether it could be used for INF weapons. "The what?" was the first reaction by the INF negotiating team. None had ever heard of the system until it was identified in the American Enterprise Institute study. After substantial probing, the system was identified and isolated as essentially a theoretical concept still on the drawing board. A hybrid system designed for strategic ranges, it would have as one portion of its flight path a ballistic launch and the remainder a nonballistic, unpowered "glide" to target. Was this system covered by the INF Treaty? The Administration chose to duck, avoiding a "yes" or "no" and providing a response that said a system would be covered if it met the four treaty criteria of range (500-5500 km), weapon delivery, ground-launched, and cruise or ballistic missile. Although grumbling, the SASC ultimately set this point aside.

"Futuristic" INF Technology. The second "futuristics" concern proved far more complex. The issue as eventually posed was clear: Could some future technology, e.g., high powered laser, microwave, Star Trek-style "phaser," etc., be deployed on INF-range missiles and used as a weapon? The instinctive response by INF negotiators was "no," but proving first that this was the U.S. position and then that the Soviets

also agreed that such technology was banned was significantly more difficult.

The origin of the problem was rooted in the development process for U.S. weaponry. To simplify greatly, a selected number of "black" programs examining and developing potential weapons on the cutting edge of technology are maintained in great secrecy with information about them highly restricted and released only on a "need to know" basis. Clearly under normal circumstances, no negotiator would "need to know." Nevertheless, in July 1987 when the INF negotiations moved from a proposal which would have permitted a residual force of INF missiles to the "zero" proposal which would eliminate all such systems, the United States began an internal review over what U.S. programs would be affected by such a proposal. The consequence of the review was a recommendation to seek two "exceptions" to the treaty: (a) for "booster stages" (Article VII, para 12) which permitted stages that had not been used in INF systems but technically had INF-range to be used for space tests; and (b) for antiballistic missile (ABM) and antisatellite (ASAT) systems (Article VII, para 3) which had been used only against targets in air or space but which technically would be banned as they have a "slant range" greater than 500 km. These were the only exceptions the INF Delegation was instructed to seek and, after considerable discussion and education, the Soviets recognized that the provisions would be mutually beneficial.

SASC Testimony. The question of "future systems" began to emerge during Ambassador Glitman's testimony before the SASC on February 22nd. At that point, Senator Quayle pressed for information to differentiate between remotely piloted vehicles (RPV) and systems banned by the INF Treaty. Glitman emphasized that systems which met the four treaty criteria were prohibited. "Weapon delivery," one of the criteria, however, was not separately defined in the treaty, since the negotiators believed it to be self-evident. Nevertheless, at that juncture, Senator Quayle began a more intensive effort to define "weapon delivery" in a manner which would apply only to currently deployed weapons technology such as nuclear or conventional explosive warheads. He was aided in his

argument by the wording of the "article by article" analysis supplied to the Senate by the Executive Branch on January 26th (see above) which noted that the treaty applied to GLCMs "tested or deployed for weapon delivery, i.e., flight-tested or deployed with any type of warhead device or simulation thereof." The senator may have hoped through this effort to leave open the potential for future development of INF-range missiles armed with high powered lasers or other exotic technology. Other senators, however, quickly spotted this issue as a potential treaty interpretation/compliance issue akin to ABM Treaty interpretation problems and demanded clarification. Administration officials recognized this as a potential treaty stopper, since there was no chance that the Soviets would agree to alter the fundamental meaning of a "zero" INF Treaty by cutting a giant treaty loophole which would permit INF missiles carrying "futuristic" weaponry.

Proving the Administration's Case. Easier said than done. After an internal caucus, the Administration determined that it did intend to ban all futuristic weapon technology for INF Treaty limited systems. Then began what proved to be an uphill fight to prove that both the Soviets and United States agreed that such "futuristic" systems were indeed banned. The Administration was hindered, moreover, by the absence of explicit treaty provisions defining "weapon delivery" and future technology. Consequently, the Administration had to prove its case by logic, implicit treaty circumstances and circumstantial evidence drawn from the treaty negotiating record.

Nevertheless, the issue was not publicly debated, with the SFRC essentially willing to accept the Administration's arguments and the Administration again attempting to explain its case in closed hearings with the SASC on March 18th and 24th. When Senator Nunn's testimony and the Armed Services report were delivered at the end of March, however, the "futuristics" moved into higher gear. The SASC comment on the "futuristics" issue termed it "critical" and recommended an "authoritative" Administration definition of "weapon delivery" and assurance whether this definition "was clearly agreed to" by the Soviets. If the Senate was unsatisfied with Executive explanation, the report warned, an "appropriate

understanding" with the Soviets would be necessary to determine the scope of "weapon delivery." Consequently, during the "markup" hearings, Senator Pell requested a response to the report and Senator Helms asked for specific negotiating record citations to substantiate Executive Branch conclusions on Soviet positions.

A vigorous search of the largely unindexed official negotiating record quickly unveiled a number of indicative references demonstrating that the Soviets sought to ban all ground-launched weapon delivery systems in INF ranges. These citations were sent to Senator Pell in early April. Particularly definitive in the INF negotiators' view was a plenary statement by Soviet Ambassador Obukhov which emphasized the Soviets' desire to ban all types of INF-range ground-launched systems "regardless of how they are armed" (which clearly covered "futuristic" as well as existing armament). To further substantiate its position, the Administration, after detailed interagency review of other points of criticism by Nunn, also sent Pell a response (known internally as the "five issues" letter) emphasizing the accuracy of its interpretation. In it, the Executive Branch averred that the United States and Soviets jointly understood "weapon delivery vehicle" to mean "any mechanism or device which when directed against a target is designed to damage or destroy it" and sanguinely suggested it was not necessary to confirm this understanding with Moscow. Additionally it concluded that all ground-launched, INF-range "weapon delivery vehicles" (GLCM and GLBM) both "present and future" were banned.

Attempting to Satisfy Senator Nunn. Despite this brave front, the Administration was aware, prior to its official transmission of the letter to Senator Pell, that these assertions would not satisfy Senator Nunn's continued concerns. Staffers made it clear that while the Administration had a reasonable case, the legacy of the ABM Treaty reinterpretation battle had too poisoned the atmosphere to allow the Executive Branch any benefit of the doubt.

In what appeared at the time a fortuitous development, however, Secretary Shultz was already scheduled to meet Soviet Foreign Minister Shevardnadze in Geneva on April 14th

to discuss preparations for the Moscow Summit. A short session with Shevardnadze could be used to pinpoint the Soviet position on "weapon-delivery vehicle" and "futuristic" INF systems. Approaching the Soviets was hardly the Government's first choice. The negotiators believed their technical position both in the treaty and throughout the negotiating record was definitive; therefore, to approach the Soviets as *demandeur* would suggest we were unsure of our ground. Additionally, there were concerns that the Soviets would extract a price by reopening other points, perhaps seeking to expand the definition of "futuristic" technology to include selected effects such as electronic jamming. Nevertheless, the Administration, supported by some members of the Senate, determined to make the approach.

Getting wind of Executive Branch plan to approach the Soviets, however, Senators Quayle and Dole attempted to short-circuit any diplomatic demarche. In a letter to the Secretary, Senator Dole urged Shultz not to take the issue up in "premature discussion" with Shevardnadze and to let the Senate complete its review and analysis of how decisions on "futuristics" in INF might affect other arms control negotiations.

A portion of this debate was played out in a closed hearing of the Armed Services Committee on April 14th. Here Senator Quayle released a letter he had sent Secretary of Defense Weinberger and former ACDA Director Adelman on April 12th. In his letter, Quayle asked each if he knew that the INF Treaty would ban "futuristic INF weapons carrying payloads unrelated to nuclear, chemical or high explosive munitions." In presumably prearranged responses, each dated April 13th, Weinberger and Adelman stated that they did not recall any discussion of "futuristic" systems in an INF context. Weinberger further obliged Quayle by stating that if he had known such "futuristic" systems would be banned, he "would have opposed it in the strongest possible terms." Senator Quayle's letters were a bit disingenuous as, in the context of the debate over banning conventionally armed cruise missiles, he had warned then NSC advisor Carlucci in a September 10, 1987 letter that such a ban "could eliminate our option to deploy new technology weapons...and that it would be politically

imprudent to so jeopardize our future option on these military technologies." Courtesy copies were sent to Weinberger and Adleman. During the course of the hearing, Administration witnesses went through the "what did he know and when did he know it" Watergate-style drill. Knowledgeable military witnesses testified that the issue of applicability of "futuristic" technology to INF systems had been discussed in sufficient scope and detail to inform ranking Defense Department officials. In effect, they had determined that "futuristic" technology could be accommodated on other delivery systems, e.g., ALCM.

A Letter from Shevardnadze. Earlier, however, members of the Administration had concluded that Quayle (and Dole) were attempting to keep open the potential for "futuristics" in INF-range weapons—a move that the now alerted Soviets would never accept. Consequently, Shultz broached the topic with Shevardnadze on April 14th (the day of the SASC hearing) and, in a remarkably rapid response, on April 15th Shevardnadze provided a letter agreeing with the U.S. position and stating that treaty covers INF systems "however armed" and that they would be banned "irrespective of their armament, nuclear or any kind of non-nuclear." The Administration considered the response definitive and authoritative and rushed it to the Hill.

Rather than closing off the topic, however, the Shevardnadze letter turned into a mini-catastrophe. Although the letter appeared quite satisfactory to the Administration, to the jaundiced eyes on the SASC it was seriously lacking. Not only did it fail to repeat precisely the formulation that the United States had been using to define "weapon-delivery vehicle" (Shevardnadze had attempted to short-hand the agreement by simply stating that Moscow agreed with the United States), but it used "warhead" (now a buzzword for confusion) in the text. Additionally, a flawed (informal) translation provided by the Soviet Embassy initially was circulated on the Hill creating further linguistic confusion before the U.S. formal translation was available. Again, Senator Nunn concluded that greater precision was required. A formal clarification would be necessary and, in an April 22nd floor statement, Nunn spelled

out this requirement, while critically dissecting and dismissing the Administration's arguments that such was not necessary.

An Exchange of Notes. Therein followed a protracted—virtually unique—drafting exercise between the Executive and Legislative branches. For days, texts were exchanged on a set of official messages that the United States would exchange with the Soviets. To satisfy our concerns (and assure the perfect response), the United States drafted both the statement outlining the U.S. position on the definition of “weapon-delivery vehicle” and the concomitant ban on “futuristic” INF systems and the Soviet response (little more than, da). Drafting was tedious with the NSC, State and staff from several senators involved in the process. The result was one element of the final return to Geneva on May 12th.

Blindsided by the Soviets: The Technical Talks.

However, still another problem was lurking in the wings—a series of issues raised during technical discussions of the treaty.

Although the treaty was scheduled to go into effect 1 month following the formal exchange of documents (ultimately performed on June 1, 1988 at the Moscow Summit), both sides realized that there was more than a month of preparation necessary to assure that treaty implementation proceeded without any of the embarrassing “glitches” that would play into the hands of treaty critics. Thus, although the treaty was unprecedented in its detail, it was still only a structure upon which a good deal of procedural implementing detail was necessary. These details were addressed in a series of “technical talks” in Geneva (March) and Washington (April) and, more or less predictably, stimulated problems of their own. The most important of these was a Soviet challenge concerning whether the U.S. inspectors could look for an item the size of a missile stage or were restricted to inspection for an item the size of a complete missile. Nevertheless, Administration observers did not consider the problems serious and, indeed, the technical discussions had been accorded less substantive attention than the ratification

debate—after all, if ratification failed there would be no implementation.

These interpretation problems, however, quickly moved from technical to political levels with publication of a *New York Times* article by Michael Gordon on April 28th identifying several of the issues in play and stating that the United States was preparing to press the Soviets to resolve them. And indeed the State Department Counselor, Ambassador Kampelman, called in Soviet Ambassador Dubinin late on Friday, April 29th to present the U.S. requirement that nine inspection/verification-related issues be resolved prior to Senate debate. Delayed by the weekend and their Monday celebration of May Day, the Soviets did not respond until late on Sunday, May 8th. Unfortunately, the Soviets had failed to take the problem sufficiently seriously and their answers although positive in tone were incomplete, left unresolved the vital issue of inspections at Votkinsk, and raised an unacceptable demand for accounting and elimination of Federal Republic of Germany (FRG) missiles stored in the United States.

Consequently, the SSCI was unimpressed in a May 9th hearing to examine the Soviet responses. Focusing on their inadequacy, SSCI Cochairmen Senators Boren and Cohen announced, following the hearing, that ratification debate must be delayed pending resolution of the issues. The INF Team then prepared to return to Geneva one last time.

The final session was memorable in its own right. Arriving late from Washington on May 11th, the U.S. team, led by Ambassador Glitman, began meeting immediately with the Soviets. By May 12th, all issues were resolved. The formal diplomatic note on "futuristics" was signed by Ambassadors Kampelman and Karpov. Agreement was reached on the nine verification issues in a "minute" signed by Glitman and Colonel General Chervov—although not until 10 hours after Secretary Shultz announced at a press conference that everything had been completed. One of those "loose ends" required an all night negotiating session to tie down. But with it all, the treaty was finally ready for Senate floor debate.

Senate Ratification Debate.

The 2 weeks of Senate floor debate was a self-contained drama. It was political theater with the requirements for formal "speechifying." It was a litmus test of ideology against which supporters and opponents will be labeled for all time. It was a last chance to make a statement by modifying the treaty text and to lay down "markers" for other arms control negotiations, particularly START. It was a political science textbook of parliamentary maneuver with various candidates for most clever senator. It had the internal dynamic juxtaposing the much desired Memorial Day week-long recess against the political requirement to approve the treaty for the approaching Moscow Summit. A daily question was "will the treaty be done in time?"

Perhaps least of all, however, it was a "debate" in which the fate of the treaty was in doubt. Throughout the long Senate review, the Administration and treaty supporters knew they "had the votes" and that the Senate would give its consent. Thus the problem for INF ratification was not persuading doubting senators, but getting the treaty to the floor for debate where approval would be just a matter of time, whether formal discussion took 1 week or 10.

Administration preparations for floor debate were painstaking. Indeed, probably they were overdone. Detailed "books" on the treaty were prepared for each senator and key staff. Very detailed master books were prepared for floor leaders and major senatorial spokesmen. Speeches were drafted for "friendly" senators on general treaty topics and specific topical problem issues, e.g., futuristics, to be deployed as necessary. Counters for possible hostile amendments were game-planned. The State Department, which unlike several other Executive Branch departments does not have permanent offices on the Hill, opened a temporary office in the Capital Building near the Senate Gallery. This operation, headed by INF Treaty negotiator Glitman, was designed to permit Administration officials to respond quickly to fast breaking developments during the floor debate.

Nevertheless, the first "week" (opening Tuesday, May 17th and ending Friday) of floor debate was desultory. Debate started late in the morning and concluded in normal business hours. Set piece speeches were read into the record—speeches which reflected good staff drafting and the pounds of material in the public record explaining the treaty.

During the first week, the sides maneuvered with the Democratic majority attempting to create a list of amendments/modifications to the treaty so these could be scheduled for debate and vote. Treaty opponents avoided any such listing and instead angled for devices to delay action. In a definitively indicative voting test, however, on Thursday, May 19th, Senator Helms again attempted to resurrect his claim that the INF Treaty was improper because Gorbachev was not a legal representative of the Soviet state but a political party official. That claim had been extensively rebutted in Foreign Relations Committee hearings (essentially international law permits *anyone* to sign a treaty if it is clear that their state authorizes them to do so.) It was hard to claim with a straight face that Gorbachev did not have the authority to commit the Soviet state. Consequently Helms' point of order was tabled 91-6, suggesting the limits of die-hard opposition to the treaty.

Also during the later part of the first week of debate, the Senate examined several other amendments to the treaty. These were offered one by one, presumably after coordination by Senate opponents, to keep the debate going without giving any indication of an outer limit for the length of formal debate. The first amendment, proposed by Senator Symms (R-ID), called for Presidential certification that the Soviets were in compliance with all past arms control agreements prior to entry into force of the INF Treaty. Clearly designed to appeal to traditional conservatives, Symms outlined an extended list of Soviet treaty violations as identified in annual Presidential arms control compliance reports associated with five previous agreements which the Soviets would have to rectify before the United States would implement the INF Treaty. Without engaging Symms on his own grounds of the validity of the violations or previous Soviet noncompliance with agreements, the five individual elements of the proposal were voted down

by margins ranging from 82-15 to 89-8. Essentially, the Senate had concluded that the INF Treaty "stands on its own" and, by providing the opportunity for a fresh start in U.S.-Soviet relations, should not be linked to past failures. In a similar vein, Senator Humphrey (R-NH) offered an ostensibly "motherhood" amendment requiring Presidential certification that there was a 15-day stockpile of munitions and fuel for NATO conventional forces prior to the treaty's entry into force. By drawing attention to shortcomings in Europe's conventional defenses, the Humphrey amendment was designed to be attractive not only to standard conservative Republicans but to "defense Democrats," such as Senator Nunn, who had deeply held reservations over the need to improve conventional defenses. Not at all discomfited over the prospect of ostensibly ignoring the need for conventional force improvements, Democrats agreed with Humphrey's premise that such conventional stocks were needed (i.e., "motherhood" is good) but simply indicated by defeating the amendment 73-8 that the INF Treaty was not the vehicle to redress conventional force problems.

Thus by the end of the first week of debate, the Majority Leader, Senator Byrd, had begun to show frustration. Clearly, in his view, the Republicans had had their fun and it was time to settle down to work. Byrd had continued to attempt (to no avail) to elicit a definitive account of the amendments that would be offered. Minority Leader Senator Dole was unable to supply any such listing as conservative Republicans simply indicated there would be in unspecified numbers, an unidentified "more." Byrd turned the heat up by stating that the Democrats would propose no individual amendments, thus making it clear to the media that any delay in completing Senate debate would lie with the Republicans. Procedurally, Byrd threatened to invoke the complicated "cloture" rule which, if passed by 3/5 of those present and voting, would limit debate to 30 hours and reduce the ability to introduce further amendments. In ordinary circumstances, the Senate is loath to invoke cloture, valuing the comity produced by letting a minority have its say, even at extended length, if there is a "gentleman's agreement" that the minority will not attempt to take advantage of this permissiveness.

Simultaneously, on May 16th, there was still another set of questions directed by Senators Helms and Humphrey primarily at elements of the Glitman-Chervov May 12th "Agreed Minute." The questions reflected essential misreadings of the content of the Minute which expanded and clarified U.S. rights rather than surrendering them as charged in the questions. But while the questions were substantively thin, the threat by Senators Helms and Humphrey to filibuster until answers were produced was taken seriously. Consequently, there was a full court press within the Administration and intelligence community to produce answers which were completed in record time for the Q&A process—7 days.

The Second Week. With the opening of the second week, the earlier dilatory pace began to change. During this final week, debate was dominated by a number of amendments which in one form or another eventually found their way into the ratification document and the increasing pressure to complete the advice and consent process since the President had already left Washington for the Moscow Summit. By Tuesday afternoon, Byrd and Dole had filed a petition for "cloture" which could not be officially acted upon by the Senate for 48 hours but, *if* voted upon at that point, would sharply limit further debate. Byrd adroitly used the threat of a cloture vote on Thursday and Friday to push for accelerated progress on the thicket of amendments. Ultimately, through a series of "unanimous consent" agreements, Byrd avoided a cloture vote and worked out a timeline permitting individual senators to "have their say" and introduce specialized amendments. And as the week heated up, such amendments came thick and fast, frequently with no warning over their introduction, little or no coordination, frantic redrafting, compromises, and occasionally acceptance virtually "on faith," by voice vote.

Technical Corrections/May 12th Agreements. No agreement is perfect and the INF Treaty proved that maxim. Following the December 8, 1987 treaty signature, a number of typographical errors were noted in the treaty and the diagrams of sites to be inspected. These errors were identified and rectified in standard diplomatic exchanges of notes. Likewise, the "futuristics" issue and the series of verification/

implementation issues were resolved on May 12th by legally binding exchanges of notes. Senators, however, questioned whether this process was satisfactory and Senator Helms, in particular, sought specific individual amendments to reflect the technical corrections. Helms played footsie with his amendments advancing them for debate and then withdrawing them; ultimately he combined his proposals with Senators Nunn, Warner, Boren and Cohen in an amendment to require the President to secure final confirmation of Soviet agreement to the May 12th exchange of diplomatic notes. This omnibus (and superfluous) amendment was approved 96-0.

"Double Negative." Both the Armed Services and Foreign Relations Committees had examined in detail the treaty language prohibiting the sides from making more than one stage of a non-treaty limited missile that is "outwardly similar to but not interchangeable with" a stage of a banned missile. The battle of grammarians had appeared on the surface to be a draw but reappeared in an amendment on May 23rd by Senator Wallop to clarify "ambiguous and tortured language." The Administration opposed the amendment which was eventually tabled (68-26). Nevertheless, it had attracted a greater range of Republican and Democratic support than any previous proposal and clearly weighed on the minds of Senate leadership. Consequently early on May 27th, Senator Dole (without discussion with the Administration) reintroduced language to clarify that only one such "outwardly similar" stage could be produced and quickly secured voice vote approval.

The "Biden" (Treaty Interpretation) Amendment. The source of most of the political tension during the ratification process, the amendment as originally offered by the SFRC was modified by Senator Byrd to be more attractive to the Administration. Nevertheless, in running debate throughout May 26th, it was vigorously and inventively attacked by Republicans arguing, *inter alia*, that it would bind the United States to standards more stringent than those accepted by the Soviets. The point was made obliquely by Senator Wilson who offered a further, ostensibly bland amendment late in the evening to the effect that the United States would not be bound to any interpretation of the treaty not shared by the Soviets.

Fearful that their point of binding the Executive Branch to its stated interpretation of the INF Treaty was about to escape, Byrd threatened an immediate cloture vote (which would presumably have delayed completion of the treaty past the Moscow Summit) if the Wilson proposal was not defeated. Although tabled by a virtual party line 53-45, it was hardly satisfying to Byrd who labeled Republican tactics "Mickey Mouse" and abruptly concluded the session for the night.

Human Rights. A multiple sponsored "declaration" (which did not have to be communicated to the Soviets) stated that the United States should inform the Soviets of our strong commitment to human rights and emphasize that they should comply with the Helsinki Final Act. As a hortatory, "motherhood" proposal, it was approved by voice vote.

START Cautionary Notes. Strategic issues were much on the minds of senators during debate. Among other messages being delivered to the Administration, the Senate clearly wanted to lay down "markers" on START: essentially do not rush to judgment and preserve the conventional cruise missile. These declaratory markers were contained in two separate proposals, the first initiated by Senator Helms and intensively debated and modified during the course of the week, and the second introduced late on May 26th by Senators Murkowski and Quayle and adopted without significant discussion.

The latter emphasized, *inter alia*, that "it should be the position of the United States that no restrictions should be established on current or future nonnuclear air- or sea-launched cruise missiles..." in any START agreement. The Senate could not send a stronger message that its acceptance of the INF cruise missile ban had been a hard pill to swallow (a final effort by Senator Hollings to amend the treaty to permit conventionally armed GLCMs had been defeated 69-28) and the Senate did not want to see a "logical" extension of the GLCM ban appearing in a START agreement.

Senator Helms, however, had sought more detailed senatorial control over the START negotiations. Rather than simply defeating the amendment, the Administration elected to do extensive "face saving" modification. As ultimately

modified and cosponsored by Dole and Byrd, the amendment declared that START negotiations will be conducted with "close and detailed consideration of the advice of the United States Senate" and that any "framework" START agreement would only guide further negotiations and "not constrain any military programs..." Appropriately sanitized, the amendment passed 94-4. Nevertheless, as the Senate had repeatedly telegraphed its fears over a "rush to judgment" for a START Treaty (one proposal being a START "framework" agreement), the amendment made it clear it did not desire further START action in an election year.

As a side note, the paired START provisions were at least somewhat contradictory on a secondary point: future approaches to verification. The Murkowski-Quayle declaration noted that: "the United States *should rely primarily on its own national technical means of verification* rather than any cooperative verification scheme, such as the on-site inspection procedures agreed to in the INF Treaty" while the Helms, *et. al.* amendment stated that "the negotiations...shall also seek to secure regimes of effective verification and mechanisms for full compliance *which build upon the verification regime and compliance mechanisms of the present Treaty*, strengthening them appropriately for any subsequent treaty..."

Clearly the first requires greater reliance on NTMs while the second contemplates an enhanced on-site inspection regime. The explanation for the inconsistency is relatively simple: inadvertent oversight. Murkowski-Quayle was available only in a scratched up, largely handwritten form on the night of May 25th and advertised as a cautionary note on the conventionally armed cruise missile. Passed by voice vote, it was not seen nor reviewed by the Administration prior to passage. The "Helms Amendment," however, was thoroughly reviewed and redrafted to adjust its text into acceptable form. The consequence of this internal disconnect was not considered major—simply a point to be worked out during renewed START negotiations. It illustrates, however, in microcosm, the results of high pressure negotiation.

A Final Note. In mid-afternoon on May 27th, the Senate, in careful attention to ritual, provided its consent to the INF

Treaty. Following the 93-5 (Helms, Hollings, Humphrey, Symms, and Wallop) approval, the packed Senate gallery burst into rare spontaneous applause. The President would have his treaty at the Moscow Summit. The Memorial Day holiday had been preserved. Particularly appreciative of the results, the Administration flew Senators Byrd and Dole to Moscow for the official exchange of ratified treaties. Ambassador Glitman, the INF negotiator, however, was not invited.

Conclusions.

With the experiences of the INF Treaty ratification completed, what lessons can the observer draw from the experience, particularly for a START Treaty?

Learn to Love Ministerial Government. The divided nature of U.S. Government has been the essential factor in domestic politics for almost 40 years. It appears likely to continue—and at a minimum will exist through 1992. The INF Treaty demonstrated the political impetus for the Senate to be seen as “equal partners” with the Executive Branch in the treaty-making process. As arms control agreements appear more rather than less likely in coming years, the Senate will be regularly involved in the process. To a degree, this phenomenon is simply an extension of the steady expansion of congressional authority into the conduct of foreign affairs—a circumstance familiar to parliamentary systems where ministers of foreign affairs and defense are drawn directly from elected parliamentarians—but largely foreign to previous U.S. experience.

Unfortunately for the Executive Branch, the Senate comes to a treaty apparently not with the expectation of reviewing a good job, well done, but with anticipation that there are mistakes in need of correction. Presumably this reflects the senators' personal experience with drafting legislation. It also, however, reflects the basically adversarial attitude between Executive and Congress; the “checks and balances” which are often played as a “zero sum game” in which the successes of one branch of government are viewed as losses by the other.

This innate tension is now complicated by intense suspicion rooted in what the Congress sees as the covert Executive approach to the Hill of "put one over on them/slip it by them" embodied in the Reagan Administration effort to reinterpret the ABM Treaty and the management of Iran-Contra issues, but leading back as far as conflicts over the management of the war in Vietnam. Thus, if the Executive Branch really wants something, the first congressional response tends to be "what's the matter with it" or, at best, "how can we benefit, too?" It does not apparently matter to the Senate that the Executive-Congressional partnership implicit in Constitutional review of treaties is not a requirement to engage in the detailed task of treaty drafting.

And there are many intelligent, highly motivated senators and staff on the Hill. This concentration of talent means that any complicated compromise or infelicitous wording will be seized upon quickly and potential ambiguities examined. If a problem area is not noticed by the staff during its own review, it will be pointed out to them by internal Administration critics. It appears to be a truism that the outcome of any complicated compromise has its "winners" and "losers." While the "winners" are willing to smile quietly, the losers are "sore" and anxious to reargue the issue on the Hill. There seems little tolerance for ambiguity at this point in history—either from the right (citing SALT I and II) or the left (citing the ABM Treaty interpretation fight). However, words are not tooled steel and "precision" in treaty language less easy to obtain than in tool and die manufacture. Indeed the two substantive problem areas in the INF Treaty were at worst mildly ambiguous: "Futuristics" and the "double negative," but that saved neither from painful reworking.

The question of the role of future technology under an INF Treaty became a ratification issue primarily because Senator Nunn was dissatisfied with the Administration's explanation of the subject and Senator Quayle did not want the INF Treaty to serve as a precedent for helping the Soviets to block the use of "futuristic" technology in the SDI program. The Administration, and particularly the negotiators, clearly believed that the treaty text and negotiating record supported

a ban on "futuristic" INF-range missiles. Senators Nunn and Quayle, however, contended the record was not clear. Nunn argued that the Administration's position on the reinterpretation of the ABM Treaty demanded further clarification of "futuristics." Quayle sought to limit "weapon delivery" to *existing* weapon systems but, ironically for his cause, by forcing the issue, he stimulated those who might have missed the point to insist on resolving it three times over.

Certainly following the April 15th letter from Soviet Foreign Minister Shevardnadze, the Reagan Administration believed (despite initial translation difficulties) that there was no further ambiguity. Senator Nunn still did not agree. The consequence of Senator Nunn's dissatisfaction was an unparalleled joint Administration-Senate drafting of an agreed exchange of notes with the Soviets. Thus an exchange which should have been a technical exercise conducted by a mid-level career diplomat escalated to the status of a major Hill-Executive Branch negotiation with legal language dictated by Senate staffers from which diplomats dared at their peril to vary.

And even this capitulation by the Executive to senatorial authority proved insufficient as the Senate ultimately insisted that the exchange of notes be incorporated as a "Category III" amendment to the instrument of ratification requiring still another affirmation of Soviet acquiescence before the treaty could enter into force. It is difficult to argue at that point whether the Senate was being appropriately cautious or not simply demonstrating its muscle.

Having developed a taste for such drama, it is easy to predict that the Senate will continue along similar lines. The INF ratification experience will be cited as precedent and justification. The lesson the Senate will draw from the "futuristics" debate will be that the United States needs simply tell the Soviets to "change it" and they will. Since Administration concerns that the Soviets would use the U.S. desire to clarify the "futuristics" issue to reopen major issues of their own proved largely groundless in INF, senatorial proponents of renegotiating other points will argue that it can be done quickly, painlessly, and at low cost. It will be easy to forget that banning

future technology on INF-range missile systems was to Soviet advantage.

Don't Lose the 1986 Election (or Alternatively Win the 1990 Election). There is no question that the Reagan Administration paid a substantial price for being the minority party in the Senate. Losing control of the Senate in the 1986 election left the management of the INF Treaty in the hands of the Democratic majority—a majority which, having regained control of the Senate after being out of power for 6 years, had interests and priorities often not amenable to White House suggestion. The Senate treaty ratification process and the “checks and balances” process in general are deliberately constructed to protect the rights of the minority. But the rights of the minority are designed to prevent action. It is a different story indeed when the minority wants action. Had the Reagan Administration retained its previous Senate majority, INF ratification may well have been considerably easier as:

- the pace of testimony and committee markup could have been stimulated;
- Senate floor debate could have been scheduled for immediately after Easter instead of being shunted aside for over a month while the Senate addressed the Omnibus Trade Bill;
- it would have been far more difficult to have forced the “Biden Amendment” on treaty interpretation into the treaty. Without control of the SFRC, the Democrats could not have attached “Biden” to the SFRC report and would have had to present it on the floor of the Senate where including it in the final document would have been more difficult. Moreover, a Republican-directed SFRC might have been able to secure acceptance of one or another of the compromises on treaty interpretation floated by the White House.

This assessment is not to imply that Senators Pell, Boren and Nunn as committee chairmen were treaty opponents or that the prospect of steering the treaty through an SFRC chaired by Senator Helms would have been painless ratification. Nevertheless, Senator Byrd as Majority Leader made a game of deliberate prickliness in response to any

implication from the White House that Senate action was in order. The Reagan Administration was forced to play by Byrd's rules and come to him, hat in hand. As a consequence of persistent delay by Byrd on scheduling treaty debate, further review expanded to fill available time and a non-issue such as "futuristics" absorbed a month of congressional and Executive Branch effort.

Don't Ratify an Arms Control Agreement in an Election Year. Was INF a political football? Absolutely. For one party it was a "historic" agreement, while for the other, a "modest first step." While the treaty was vigorously opposed by conservative Republicans and supported by liberal Democrats, nevertheless it posed more of a political problem for the Democrats than the Republicans. The core of the Republican Party, centered in the Executive Branch, supported the INF Treaty and intended to make it a major plank in the election campaign, disowning conservative treaty opponents as necessary. Democrats critical for years about lack of Reagan commitment to arms control were faced with a diplomatic success (which they supported) but one of considerable political value to the Republicans. Consequently, Senate Democratic leadership frequently had two competing agendas: (a) get the Senate to finish its advise and consent process approving the treaty; and (b) make sure that the Republicans could not claim the millennium from a ratified treaty.

Additionally there was a shared feeling that the Senate was able to deal with only one arms control agreement in 1988—and that was going to be INF. Senator Byrd (echoed by others) made it clear as early as February following the Verkunde Conference in Germany that there should be no rush to judgment on START. Nevertheless, if the INF Treaty were to have been approved at the end of March (the original estimate), it would have provided START with considerably greater impetus to move to completion—impetus difficult to gauge in retrospect but certainly not desired either by Democrats or conservative Republicans. The consequence was a tacit alliance to prevent early action on the treaty,

wrapped in professed concern that the treaty be "right" and "accurate."

The conclusion was predictable. Following extended public spats over issues such as an SS-20 "covert force" and prohibition of any "futuristic" technology on INF-range missiles, the INF Treaty emerged from the Senate just in time for the Memorial Day recess and the inclusion of several prominent Senators in President Reagan's official party at the Moscow Summit. Although public support for the treaty held up well, the impression that it was better than "Classic Coke" had dissipated and the Senate emphasized in the media that it was an equal partner that had "fixed" the treaty.

Resolve the Treaty Interpretation Problem and the "Sofaer Doctrine." Beyond any question, the Senate Democrats expended more ire over their interpretation of the "Sofaer Doctrine" than any other aspect of the treaty. The Reagan Administration was well forewarned that problems of "treaty interpretation" created by its reinterpretative review of the ABM Treaty would be fought out in the INF Treaty. Forewarned, yes. Forearmed, yes. But still unable to dodge the bullet. With the INF Treaty as hostage, both sides engaged in extended pressure tactics attempting to make the other back down. Ultimately, the Democrats had a firmer grip on the political realities, to wit, President Reagan had to "eat" what the Senate Democrats gave him on treaty interpretation as the Executive could not face the consequences of refusing to ratify its own treaty.

Despite the bruising nature of the battle, treaty interpretation is not dead. The Executive Branch can back away from the "Sofaer Doctrine" claim to be the sole interpreter of treaties. Alternatively, it can take the INF ratification document's treaty interpretation amendment at face value as applying only to the INF Treaty and continue to argue its case for START (or any other treaty). The latter course assures a battle over this issue with each presentation of a treaty to the Senate.

Remember the Limits of the European Card. One highly valuable prop for the INF Treaty was strong, persistent

international support of which NATO backing was only the most obvious component. In contrast to SALT II, the INF Treaty was an agreement affecting far more than U.S.-Soviet relations. We could not lightly consider rejecting an agreement that reflected a decade of U.S.-European consultation and negotiation. Ultimately, most treaty critics, such as former SACEUR General Rogers and former Secretary of State Kissinger justified their grudging support for the treaty on the grounds that rejecting it would be worse than ratifying it so far as our relations with Europe and even European defense was concerned.

Arms control agreements such as the completed accords on Conventional Armed Forces in Europe (CFE) and the still pending Chemical Weapons (CW) also had/have broad international ramifications in their effort to secure Senate ratification. Nevertheless, the START Treaty, despite the disintegration of the Soviet Union, does not have such a natural advantage.* Although we have consulted extensively with European and other friends and allies, these discussions were informative rather than deliberative. We have kept at stiff-arm length President Mitterand's French proposal for high-level U.S.-Russia-UK-France review of the fate of nuclear weapons in the former Soviet Union. Thus, while Europeans and Asians may inform senators that, for example, a START-related reduction of strategic arms by 50 percent or more will also affect them and note their support for such an outcome, Allied opinions will not have the weight they had on INF. Nor could the U.S. Government suggest that allied reactions to START are vital, as their involvement has been peripheral rather than intimate.

Nor Will Domestic Support Be Automatic. The INF Treaty benefitted from massive domestic and international support. It was perceived as the right treaty at the right time. Historic "firsts" such as asymmetric Soviet reductions and on-site inspections reinforced the impression that it was a "good deal" for the West. Even with the demise of the Soviet Union and a

* The START Treaty was ratified by the Senate on October 1, 1992, after this manuscript was completed.

new era of "good feeling," the atmosphere for a START agreement is different. While INF systems were important, they were ultimately a threat to Europe and Asia, not the United States, and constituted only 3-5 percent of nuclear arsenals. Strategic systems, however, are the ultimate guarantee of U.S. independence and there has been little domestic discussion of how we want to structure residual strategic nuclear forces. The willy-nilly strategic reduction proposals agreed in outline form at U.S.-Russian summits come tumbling after undigested START proposals. The restrictions on remaining forces and the manner in which they are to be constituted should stimulate intensive strategic debate and, at the same time, imply budget commitments for the next 20 years. There is a serious question whether all this activity has the cerebral underpinning necessary to rationalize the U.S. nuclear strategic posture into the 21st century. The numbers of nuclear systems involved in the START reductions will be massive, let alone the additional reductions bruited about at the Bush-Yeltsin June 1992 Summit, and their very volume raises environmental questions of storage/disposal of fissile material.

Thus, we can anticipate that even with continued Russian political evolution and a smiling President Yeltsin, START will encounter some "go slow" skepticism. There are those who believe that for economic imperatives the Russians must make massive reductions in any event, so why should we "pay" for them. Others, citing authoritarian Russian history to wonder if a democratic Russia can emerge from the USSR rubble, question whether we should quickly eliminate nuclear forces that may have to be rebuilt. Still others will want to be "efficient" and combine the "obsolete" START Treaty with follow-on agreements incorporating further reductions. While such opposition will probably not be definitive, the already long-delayed START Treaty has not been able to count on the grand coalition of support ranging from VFW to Women's Strike for Peace that rallied behind the INF Treaty. Instinctive opponents of arms control agreements, who ultimately voted for the INF Treaty because they lacked a legitimate constituency to justify a "no vote," have been able to quietly oppose START by citing the evolving confusion of the former

Soviet Union and thus a need to "keep our powder dry" until clarity emerges.

A Delayed and Revised Treaty. A corollary of this international confusion and legitimate domestic opposition has been extreme care in senatorial review. To date, every senator has viewed his START vote as a potential election issue. Even those who support a START Treaty are compelled to be picky, picky, picky to alleviate constituent concerns. To date, committee hearings have been quite protracted. The SFRC has completed hearings, but SASC discussion has yet to begin and SSCI review of the START verification regime will be painstaking. Thus, while the INF Treaty took over 6 months from signature to ratification, the START Treaty could easily take twice that long. Nor will it emerge unscathed. The substantive and political atmosphere surrounding any START Treaty means that even if it had been carved on tablets of gold with a finger of fire, the Senate would declare itself agnostic.

Whatever the substantive quality of the START Treaty and the international political atmosphere prevailing at the time, the document will be revised, amended, and elaborated upon through "understandings." Some senators probably will seek to walk back U.S. "concessions" through amendments. Others will insist on putting their mark on the treaty through amendments whether these be substantively irrelevant "vanity amendments" or deeply felt substantive differences of opinion. There will not be a "clean treaty" (no amendments) and those orchestrating Administration support for a START Treaty would be ill advised to press for one. Rather, the effort should be to strike bargains quickly with serious critics who have an honest concern, even if one of questionable substantive validity, and co-opt such critics into opposing others with "treaty killer" reservations. Even at this late date and the need for agreement from the successor states of the former Soviet Union, a conciliatory approach may require renegotiation of some issues. Such an approach is always diplomatic anathema, risking as it does the associated danger of Russia or other former Soviet Union nuclear successor states reopening additional issues. The alternative to accommodating the Senate on such points, however, will be a

failure to ratify—not by a direct up or down voting defeat, but by continued delay.

Learn to Love the Media. INF benefitted from positive media treatment and an international focus favorable to U.S.-Soviet arms control. At the same time, key journalists writing on the issue were exceptionally well informed and substantially knowledgeable. The INF Treaty “sold itself.” START and other arms control treaties will often need all the help they can get. Deliberate effort to mobilize media support is a two-edged sword, and primary media interest remains a “good story.” If supporting START or CW is that story, it will be easier to gain ratification support. But if the treaty in question has even pinholes, let alone “loopholes,” writing a negative story—if it is a scoop—will be equally attractive.

U.S. ARMY WAR COLLEGE

**Major General William A. Stofft
Commandant**

STRATEGIC STUDIES INSTITUTE

**Acting Director
Dr. Gary L. Guertner**

**Acting Director of Research
Dr. Thomas L. Wilborn**

**Author
Mr. David T. Jones**

**Editor
Mrs. Marianne P. Cowling**

**Secretary
Ms. Catherine J. DiMeo**

**Composition
Daniel B. Barnett**